IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Crl.Rev.Pet.No. 492 of 2000

CRL.A.141/1998 OF SESSIONS COURT, THRISSUR,
CC.234/1994 OF JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA.
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REVN. PETITIONER/APPELLANT/ACCUSED:

PAILAN,
S/O. KODAKARAKARAN MATHU,
PALAKUNNU, AMBALLUR,
THRISSUR DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU.

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED
BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/09/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 2754/2000 IN CRL.R.P. NO. 492/2000

DISMISSED

06/09/2007. **SD/- K.R.UDAYABHANU, JUDGE.**

//TRUE COPY//

prv.

K.R. UDAYABHANU, J.

CRL.R.P.NO. 492 OF 2000

DATED THIS THE 6TH SEPTEMBER 2007

ORDER

The revision petitioner is the accused in C.C.No.234/1994 in the file of the Judicial First Class Magistrate, Irinjalakuda with respect to the offences under Sections 452, 354 and 323 I.P.C., who stands convicted and sentenced to pay a fine of Rs.500/- and in default to undergo simple imprisonment for one month for the offence under Section 323 I.P.C. and to undergo rigorous imprisonment for one year for the offence under Section 354 I.P.C. and to undergo rigorous imprisonment for one year for the offence under Section 452 I.P.C. with the direction that the sentences shall run concurrently.

2. The prosecution case is that on 3-10-1994 at about 1 p.m. the accused outraged the modesty of PW1, the de facto complainant by assaulting her while she was standing in the office of the Service Co-Operative Society, Vattanthara and that he attempted to disrobe her and hit at her face and backside.

3. The evidence adduced in the matter consisted of the

testimony of Pws.1 to 9 and Exts.P1 to P4. PW1, the de facto complainant has testified with respect to the incident . As per the prosecution version, she was also admitted in the Government Taluk Hospital. Pws.2 and 3 are the employees of the Service Co-Operative Society in which premises the incident took place. They have also testified in support of the version of PW1. PW3 has also stated that the accused was in a drunken state. PW5, who is a relative of PW1 and she was also along with PW1 has also supported the version of PW1. PW4, the Doctor, who issued Ext.P2 wound certificate, has testified in proof of the same. It is seen that she was admitted as an inpatient in the hospital. She had complaints of pain on the back and tenderness on the lower thorasic spinal area. There was contusion on the left side of the lower lip. The alleged case mentioned in Ext.P2 tallies with the prosecution version. The contention that in lodging the F.I.S., there was delay of three days, I find, is immaterial considering the fact that the F.I.S. was recorded from the hospital bed. It is explained that the delay has occurred on account of the delay in sending the

intimation to the police station. It was also brought out that PW1 owed certain amounts to the accused and that it was the non-payment of the amount infuriated him. It was considering the above aspect and the fact that the accused had no criminal antecedents, the appellate court reduced the sentence to one year. There is no reason to deviate from the findings of the courts below so far as conviction is concerned in exercise of the revisional jurisdiction. The conviction is confirmed.

4. Counsel for the revision petitioner has pleaded for leniency pointing out that the incident was just an instinctive action as the de facto complainant was deliberately not paying the amount due to the accused. It is also noted that since the date of the incident, more than 13 years have elapsed and that so far the accused was facing the criminal proceedings. It is also mentioned that he is aged 65 right now. In the circumstances, the sentence imposed for the offence under Section 354 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.15,000/- to PW1 and in defualt to undergo simple imprisonment for six months. No separate sentence is

awarded for the rest of the offences. The revision petitioner/accused shall appear before the Judicial First Class Magistrate, Irinjalakuda on 29-10-2007 to receive sentence. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.R.P. NO. of 2000
ORDER

6-9-2007